REMARKS

The present amendment is in response to the Office Action dated October 21, 2004. Claims 1-46 are now present in this case. Claims 4 and 10-13 are amended. New claims 18-43 have been added.

The Examiner will kindly note that representation in this matter has been transferred to another attorney. A Power of Attorney to Prosecute Applications before the USPTO and Statement Under 37 CFR 3.73(b) are enclosed herewith.

The Office Action objects to Figure 1A. The application, as originally filed, included Figure 1A whereas the corresponding sheet of drawings submitted with formal drawings on December 4, 2001, inadvertently mislabeled the first Figure as Figure 1. The first figure should be labeled as Figure 1A. The necessary drawing correction is submitted herewith.

The applicants wish to express their appreciation to the examiner for the identification of several typographical errors in the specification, which are noted at page 3 of the Office Action. The specification has been amended to correct these typographical errors.

Claims 1, 10 and 11 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Number 5,982,748 to Yin et al. The applicants respectfully traverse this rejection. Claim 1 evaluates the availability of multiple different connections by decoding the query message at the server machine and "determining availability of PVC connections and SVC connections at the server." Yin discloses requesting a specific class of service (see Figure 2) and analyzes the availability of the specific requested service and teaches directly away from a process for determining availability of multiple different connections. Accordingly, claim 1 is clearly allowable over Yin.

Claim 10 includes first and second QoS selectors with the second QoS selector located at a server machine, the second QoS selector "configured to receive the connection requests and to formulate connection responses indicating PVC connection availability and SVC connection availability." Yin evaluates the availability of a specific requested type of service and either accepts or rejects that specific request,

but does not teach or suggest formulating responses indicating the availability of multiple different connections. Accordingly, claim 10 is clearly allowable over Yin. Claim 11 is also allowable in view of the fact that it depends from claim 10, and further in view of the recitation within that claim.

Claims 2-4 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Yin combined with U.S. Patent Publication US 2004/0170178 A1 to Motobayashi. The applicants respectfully traverse this rejection. The method of claim 2 includes determining availability of PVC connections and SVC connections at the server and "connecting the client machine to the server machine using the PVC connection when the response message indicates that the PVC connection is available." Neither Yin or Motobayashi teach the determination of multiple different types of connections and connecting using a PVC connection when a response message indicates that the PVC connection is available. Claim 2 is allowable over the cited references.

Claim 3 includes determining availability of PVC connections and SVC connections at the server and "connecting the client machine to the server machine using the SVC connection when the response message indicates that the SVC connection is available." Neither Yin or Motobayashi teach the determination of multiple different types of connections and connecting using a SVC connection when a response message indicates that the SVC connection is available. Claim 3 is allowable over the cited references.

Claim 4 includes receiving additional response messages from the server indicating the availability of PVC connections and SVC connections. The combination of Yin and Motobayashi do not teach response messages containing information regarding availability of PVC and SVC connections. Claim 4 is allowable over Yin and Motobayashi.

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Yin, Motobayashi, and U.S. Patent Publication Number US 2003/0101263 A1 to Bouillet et al. The applicants respectfully traverse this rejection. Claim 5, which depends from claim 4 and claim 1, includes determining availability of PVC connections and SVC connections at the server, formulating response messages containing server information and the availability of the PVC and

SVC connections and repeatedly receiving additional messages from the server until a server having the QoS profile has been identified. Claim 6, which depends from claim 5, includes connecting the client machine to the server having the desired QoS profile. The Office Action cites Bouillet as disclosing a technique for "repeatedly trying to route a call and updating its monitors until a route is discovered that has the bandwidth to meet to each call's requirements." (See Office Action, page 7.) This is a mischaracterization of Bouillet. The sections of Bouillet cited in the Office Action describe an ingress node monitoring its own traffic flow and does not suggest sending query messages to other servers. Bouillet has no need for such query messages because the ingress node is monitoring its own traffic flow. The combination of Yin, Motobayashi and Bouillet does not suggest any analysis that determines the availability of multiple connections (*i.e.*, PVC connections and SVC connections at the server). Accordingly, claims 5-6 are clearly allowable over the combination of references.

Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Yin and Bouillet. The applicants respectfully traverse this rejection. Claim 7 includes querying a plurality of servers for a connection response with the connection response from at least one server comprising a QoS level, server information, and connection information and storing that information in a connection data base. Yin only determines whether a specifically requested connection is available. Bouillet monitors its own ingress node traffic load and maintains a data base related to multiple service routes from the ingress node, which eliminates any need to query servers for a connection response. The combination of Yin and Bouillet does not suggest querying a plurality of servers for a connection response in receiving a connection response from at least one server comprising a QoS level, server information, and connection information and storing that information in a connection data base. Accordingly, claim 7 is clearly allowable over Yin and Bouillet. Claims 8 and 9 are also allowable in view of the fact that they depend from claim 7, and further in view of the recitation in each of those claims.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Yin and U.S. Patent Number 5,530,698 to Kozaki et al. The applicants respectfully traverse this rejection. Claim 12, which depends from claims 10

and 11, includes a second QoS configured to receive the connection requests and to formulate connection responses indicating PVC connection availability and SVC connection availability with the second QoS selector configured to store VPI/VCI connection pair values in the connection response when a PVC connection exists at the server machine. The combination of Yin and Kozaki does not teach or suggest the first and second QoS selectors with the second QoS selector configured to receive connection requests and to formulate connection responses regarding the availability of PVC and SVC connections as well as storage of a VPI/VCI connection pair value when the connection response indicates that a PVC connection exists at the server machine. Thus, the combination of references cited in the Office Action does not suggest the apparatus of claim 12.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Yin and Kozaki combined with U.S. Patent Publication Number US 2004/0015590 A1 to Nagami et al. The applicants respectfully traverse this rejection. Claim 13, which depends from claims 10-12, includes a second QoS selector configured to formulate connection responses indicating PVC connection availability and SVC connection availability with "the second QoS selector configured to store an ATM address of the server machine when an SVC connection exists at the server machine." The combination of Yin, Kozaki, and Nagami do not suggest the second QoS selector at the server machine configured to respond to requests for information including PVC and SVC connection availability and an ATM address of the server machine when an SVC connection exists at the server. Accordingly, claim 13 is clearly allowable over the cited references.

Claims 14-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Yin, Kozaki, Nagami, and Motobayashi. It is noted that the Office Action combines no less than four separate references in what appears to be an improper utilization of the claim language as a road map for combining bits and pieces of disparate references in an effort to reject the claims. The applicants respectfully request that the examiner point to the specific location in these references where there is a teaching, motivation, or suggestion to select and combine the references in the manner suggested in the Office Action. The examiner has the burden of showing the

obviousness of such combination by showing "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." *In re Lee*, 61 U.S.P.Q. 2d 1430, 1434 (Fed. Cir. 2002).

In view of the above amendments and remarks, reconsideration of the subject application and its allowance are kindly requested. If questions remain regarding the present application, the Examiner is invited to contact the undersigned at (206) 628-7640.

Respectfully submitted,

Davis Wright Tremaine LLP

Michael J. Donohue
Registration No. 35,859

MJD:gatc

Enclosure:
Drawings Figs. 1A-4
Power of Attorney
Statement Under 37 CFR 3.73(b)
Copy of Assignment

2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101-1688
Phone: (206) 622-3150
Fax: (206) 628-7699

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